

**Notice of Proposed Changes to the Local Rules of the  
United States Bankruptcy Court for the District of Kansas  
To Become Effective March 17, 2018**

The United States Bankruptcy Court for the District of Kansas gives notice of proposed changes to the Local Bankruptcy Rules (“LBRs”) that will become effective March 17, 2018, unless comments are received that precipitate further review. Interested persons, whether or not members of the bar, are invited to submit comments addressed to:

Clerk of the U.S. Bankruptcy Court, District of Kansas  
401 N. Market, Room 167  
Wichita, Kansas 67202.

All comments must be in writing and must be received by the Clerk no later than **January 8, 2018**, to receive consideration by the Court.

The Court proposes to amend the following Local Bankruptcy Rules and Standing Orders as noted:

**LBR 1007.1**, *Initial Filings*, will be reformatted as follows:

**LBR 1007.1  
INITIAL FILINGS**

**(a) Assembly of Petition and Accompanying Documents.** Petitions and accompanying documents not filed electronically (e.g., by unrepresented debtors) must conform to the Official Bankruptcy Forms and must be printed on only one side of the paper. Original documents and pleadings filed with the court may not be stapled.

(1) Parties must assemble petitions and accompanying documents, if applicable, in the following order:

	Name of Document	Official Form for Individual (Non-Individual)
(A)	Petition	101 (201)
(B)	List of Creditors with the 20 Largest Unsecured Claims Who Are Not Insiders (only in Chapter 11)	104 (204)
(C)	Schedules	
(i)	Schedule A/B: Property	106A/B (206A/B)
(ii)	Schedule C: Exempt Property	106C
(iii)	Schedule D: Secured Claims	106D (206D)
(iv)	Schedule E/F: Unsecured Claims	106E/F (206E/F)
(v)	Schedule G: Executory Contracts and Unexpired Leases	106G (206G)

(vi)	Schedule H: Codebtors	106H (206H)
(vii)	Schedule I: Income	106I
(viii)	Schedules J And J-2: Expenses	106J, 106J-2
(D)	Summary of Assets and Liabilities and Certain Statistical Information or Summary of Assets and Liabilities for Non-Individuals	106Sum (206Sum)
(E)	Declaration About an Individual Debtor's Schedules or Declaration Under Penalty of Perjury For Non-Individual Debtors	106Dec (202)
(F)	Statement of Financial Affairs	107 (207)
(G)	Statement of Intention for Individuals Filing Under Chapter 7	108
(H)	Bankruptcy Petition Preparer's Notice, Declaration, and Signature	119
(I)	Means Test Calculation	
(i)	Chapter 7 Statement of Current Monthly Income	122A-1
(ii)	Statement of Exemption From Presumption Of Abuse	122A-1Supp
(iii)	Chapter 7 Means Test Calculation	122A-2
(iv)	Chapter 11 Statement of Current Monthly Income	122B
(v)	Chapter 13 Statement of Current Monthly Income and Calculation Of Commitment Period	122C-1
(vi)	Chapter 13 Calculation of Disposable Income	122C-2
(J)	Rule 2016(b) Disclosure of Compensation of Attorney for Debtor	B2030
(K)	For a small business case filed under Chapter 11, the most recent: Balance Sheet, Statement of Operations, Cash-Flow Statement, and Federal Income Tax Return; or a statement made under penalty of perjury that no balance sheet, statement of operations, or cash-flow statement has been prepared and no Federal tax return has been filed	
(L)	Matrix and Matrix Verification	

(2) The following documents, if applicable, must **not** be attached to the petition and must be filed separately:

	Name of Document	Official Form
(A)	Application for Individuals to Pay the Filing Fee in Installments	103A
(B)	Application to Have the Chapter 7 Filing Fee Waived	103B
(C)	The Plan (if submitted when petition is filed in Chapters 11, 12, and 13)	
(D)	Statement About Social Security Numbers	121
(E)	Declaration Regarding Payment Advices or Evidence of Payment Under 11 U.S.C. § 521(a)(1)(B)(iv), in compliance with Appendix 1-01 to D. Kan. LBR 1007.1, that the debtor has not been employed by any employer within the 60 days before filing of the petition, or that the debtor was employed within the 60 days, but has not received payment advices or other evidence of payment, or that copies of payment advices or other evidence of payment are attached (with all but the last four numbers of the debtor's Social Security Number redacted)	Appendix 1-01 to D. Kan. LBR 1007.1
(F)	A Record of Any Interest That the Debtor Has in an Account or Program of the Type Specified in § 521(c);	
(G)	A Certificate for Credit Counseling and Debt Repayment Plan, if any, a Certification Under § 109(h)(3), or a Request For Determination by the Court Under § 109(h)(4)	
(H)	A Debtor's Electronic Noticing Request (DeBN Request) Form	<i>See Forms page of court website</i>
(I)	A Statement About Payment of an Eviction Judgment	101B

(3) Electronically filed petitions must follow the same order as listed in paragraph (a)(1) above, except that counsel must conventionally submit the Declaration Re: Electronic Filing (form available from the Clerk of the Bankruptcy Court) in lieu of Official Form 121.

**(b) Creditors' Schedules.** Debtors must list creditors alphabetically with the full address of each, including post office box or street number, city or town, state and zip code. If the debtor knows that an account or debt, including any

applicable domestic support obligation, as that term is defined in § 101(14A), has been assigned or is in the hands of an attorney or other agency for collection, the full name and address of the assignee or agent must be listed, but without twice extending the dollar amount of the debt. Each entry required by this subsection must be separated by two spaces from the next entry. If an agency of the United States or the State of Kansas is listed as a creditor, the agency must be listed as D. Kan. LBR 2002.2 provides.

\* \* \*

As amended 3/17/18, 3/17/16, 3/17/08, 3/17/07, 10/17/05, 3/17/05.

**LBR 2002.2**, *Scheduling, Listing and Noticing the United States and Agencies of the State of Kansas as a Creditor*, will be updated to reflect changes to the address of State and Federal agencies if they request a change, including

LBR 2002.2(c)(9), which will be modified to:

9. VETERANS ADMINISTRATION (VA)  
VA DMC  
PO Box 11930  
St. Paul, MN 55111-0930

LBR 2002.2(e)(2), which will be modified to:

2. Kansas Department for Aging and Disability Services  
c/o Kimberly M.J. Lynch  
New England Building  
503 S Kansas Ave  
Topeka KS 66603-3404

Other agency addresses may be changed if requested before the close of the comment period.

**LBR 2014.1**, *Application for Employment of Professionals*, will be replaced with the following text:

**LBR 2014.1**  
**APPLICATION FOR EMPLOYMENT OF PROFESSIONALS**

**(a) Motion for Approval.** Any entity seeking approval of employment of a professional person under 11 U.S.C. § 327, 1103(a) or 1114, or Fed. R. Bankr. P. 2014 (including retention of ordinary course professionals) shall file with the Court a motion, a supporting affidavit, or verified statement of the professional person, and a proposed order for approval. Promptly after learning of any additional material information relating to such employment (such as potential or

actual conflicts of interest), the professional employed or to be employed shall file and serve a supplemental affidavit setting forth the additional information.

**(b) Notice and Hearing.** All retention motions shall be heard on the first hearing date that would allow adequate notice of the retention motion and hearing as required by Fed. R. Bankr. P. 2002, 6003, and 9013 as well as D. Kan. L.B.R. 9013.2 and 9013.3. If the retention motion is granted, the retention shall be effective as of the date the motion was filed, unless the Court orders otherwise.

**(c) Professional Disclosure.** Any professional person whose employment is sought pursuant to this Local Rule must disclose its employment, or intended employment, of another professional for whom reimbursement will be requested; provided, however, if such disclosure would require the disclosure of privileged information or information which may reveal confidential litigation strategy, such disclosure may be excused by the Court. Even if disclosure is excused, however, in order to be reimbursed for any payment made by it to the other professional, the professional will still be required to comply with the requirements of Fed. R. Bankr. P. 2016 and to make any other disclosures or provide any other information required by title 11, U.S.C., the Federal Rules of Bankruptcy Procedure, or the presiding judge's fee guidelines, if any.

**(d) Noticing by Chapter 7 Trustee.** When a Chapter 7 trustee applies for appointment as attorney for the estate, the notice required by paragraph (b) may be restricted to the United States trustee, only, and in the absence of an objection or a request for hearing, no hearing is required.

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As amended 3/17/18, 3/17/16, 3/17/10, 10/17/15.

**LBR 3002.1.1**, which was formerly Standing Order 08-4, is adopted as a new local rule:

**LBR 3002.1.1**  
**REQUIRED STATEMENTS FOR SECURED DEBTS ON A PERSONAL**  
**RESIDENCE**

**(a) Scope of Rule.** This rule requires certain statements from creditors of consumer debtors who are directly repaying debt secured by a mortgage on real property or a lien on personal property the debtor occupies as the debtor's personal residence. This rule applies in Chapters 7, 12, and 13, applies only to consumer loan relationships, and applies only as long as the debtor is in bankruptcy and protected by the automatic stay.

**(b) Purpose.**

(1) The purpose of this rule is to maintain, to the greatest degree possible, the routine flow of information from secured creditors to debtors with respect to secured loans constituting secured debt (as that term is defined by 11 U.S.C. § 101(8)) where the debtor is

retaining possession of the collateral and continuing to make the regular installment payments directly to the secured creditor during a bankruptcy case. It is the intent of this rule to support the normal issuance of regular monthly statements typically issued by secured creditors to consumer borrowers who are not in bankruptcy and to provide consumer debtors with a creditor contact point so that a debtor can obtain specific information on the status of such loans, if needed.

(2) A creditor's good faith attempt to comply with this order in furnishing information to the consumer debtor shall not expose the secured creditor to claims of violating the automatic stay.

**(c) Defined Term.** For purposes of this rule, the term "Mortgage Creditor" shall include all creditors whose claims represent consumer debts secured in whole or in part by a mortgage on real property, including a personal property interest in manufactured housing, the debtor occupies as the debtor's personal residence.

**(d) Mortgage Creditor's Duties.**

(1) Except as provided in paragraph (2) of this section, and except as provided in LBR 3015(b).2, if the Mortgage Creditor provided monthly statements to the consumer debtor pre-petition, the Mortgage Creditor shall continue to provide monthly statements to all Chapter 12 and 13 consumer debtors who have indicated an intent to retain the subject collateral in their plan, and to all Chapter 7 debtors whose statement of intention (Official Form 108) indicates an intent to reaffirm the debt secured by the subject collateral. Such statements shall be provided unless and until the Mortgage Creditor is granted relief from the automatic stay under 11 U.S.C. § 362(d). The monthly statements shall contain at least the following information concerning post-petition payments:

- (i) The date of the statement and the date the next payment is due;
- (ii) The amount of the current monthly payment;
- (iii) The portion of the payment attributable to escrow, if any;
- (iv) The post-petition amount past due, if any, and from what date;
- (v) Any outstanding post-petition late charges;
- (vi) The amount and date of receipt of all payments received since the date of the last statement;
- (vii) A telephone number and contact information that the debtor or the debtor's attorney may use to obtain reasonably prompt information regarding the loan and recent transactions; and
- (viii) The proper payment address.

(2) If pre-petition, the Mortgage Creditor provided the debtor with “coupon books” or some other pre-printed, bundled evidence of payments due, the Mortgage Creditor shall not be required to provide monthly statements under (1) of this section. The Mortgage Creditor shall, however, be required to supply the debtor with additional coupon books as needed or requested in writing by the debtor.

(3) The Mortgage Creditor shall provide the following information to the debtor upon the reasonable written request of the debtor:

- (i) The principal balance of the loan;
- (ii) The original maturity date;
- (iii) The current interest rate;
- (iv) The current escrow balance, if any;
- (v) The interest paid year to date; and
- (vi) The property taxes paid year to date, if any.

(4) If the case is a Chapter 12 or 13 case where the secured consumer debt is not modified or paid through the plan, and the Mortgage Creditor believes the debtor is in default, the Mortgage Creditor shall send a letter alleging such default to the debtor and debtor’s attorney not less than 14 days before taking any steps to modify the automatic stay. Such written notice of default shall not be required in instances where the debtor has filed with the Court a plan or plan modification in which the debtor makes known the intent to abandon or surrender the property securing the Mortgage Creditor’s claim.

**(e) Form of Communication.** For the purposes of this rule, Mortgage Creditors shall be considered to have sent the requisite documents or monthly statements to the debtor when the creditor places it in any form of communication, which in the usual course would result in the debtor receiving the document or monthly statement, to the address that the debtor last provided to the Court. The form of communication may include, but is not limited to, electronic communication, United States Postal Service, or use of a similar commercial communication carrier.

**(f) Issuance of Monthly Statements is not a Stay Violation.** Mortgage Creditors who provide account information or monthly statements under subsection (d) of this rule shall not be found to have violated the automatic stay by doing so, and Mortgage Creditors may contact the debtor about the status of insurance coverage on property that is collateral for the Mortgage Creditor’s claim, may respond to inquiries and requests for information about the account from the debtor, and may send the debtor statements, payment coupons, or other correspondence that the Mortgage Creditor sends to its non-debtor customers without violating the automatic stay. In order for communication to be protected under this provision, the communication must indicate it is provided for information purposes and does not constitute a demand for payment.

**(g) Motions to Show Cause.** As a result of a Mortgage Creditor's alleged non-compliance with this rule, a debtor may file a Motion for the Creditor to Show Cause no earlier than 60 days after the Mortgage Creditor's failure to comply with this rule. Before filing the motion, the debtor must make good faith attempts in writing to contact the Mortgage Creditor and determine the cause of any omission, and must indicate in the motion the good faith attempts taken, together with a summary description of any response provided by the Mortgage Creditor.

**(h) Non-Conforming Statements and Substantial Compliance.** If a Mortgage Creditor's regular billing system can provide a statement to a debtor that substantially complies with this rule, but does not fully conform to all of its requirements, the Mortgage Creditor may request that the debtor accept such statement. If a debtor declines to accept the non-conforming statement, a Mortgage Creditor may file a motion, on notice to the debtor and the debtor's attorney, if any, seeking a declaration of the Court that cause exists to allow such non-conforming statements to satisfy the Mortgage Creditor's obligations under this rule. For good cause shown, the Court may grant a waiver for purposes of a single case or multiple cases, and for either a limited or unlimited period of time. No waiver will be granted, however, unless the proffered statement substantially complies with this rule.

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Adopted 3/17/18.

**LBR 4002.3(a)(1)**, *Tax Returns*, will be amended to eliminate the requirement to send a copy of all pre-petition federal tax returns to the U.S. Attorney's Office if they are filed after the bankruptcy petition:

### **LBR 4002.3 TAX RETURNS**

**(a) Place of filing.**

(1) The original of all Federal tax returns for pre-petition tax periods filed after the filing of the bankruptcy petition must be filed with:

Internal Revenue Service  
ATTN Insolvency/Advisory  
2850 NE Independence Ave  
Stop 5334 LSM  
Lees Summit MO 64064-2327

~~A signed copy of each return must be sent to the United States Attorney's Office located in the city where the bankruptcy case is filed.~~

(2) Except as required by paragraph (a)(3), the original of all State of Kansas tax returns for pre-petition tax periods filed after the filing of the bankruptcy petition must be filed with:

Kansas Department of Revenue



Civil Tax Enforcement  
P O Box 12005  
Topeka KS 66612-2005

(3) The original of all State of Kansas unemployment tax returns for pre-petition tax periods filed by a Kansas employer after the filing of the bankruptcy petition must be filed with:

Kansas Department of Labor  
Attn Delinquent Account Unit  
401 Topeka Blvd  
Topeka KS 66603-3182

\* \* \*

As amended 3/17/2018, 3/17/14, 10/17/05.

**LBR 5005.1, Appendix 1-01, Section VI, *Administrative Procedures for Filing, Signing and Verifying Pleadings and Documents by Electronic Means***, will be replaced with the following text:

**VI. Sealed Documents**

Unless the court orders otherwise, motions for leave to file under seal and documents that the court ordered to be filed under seal must be filed electronically in accordance with the instructions for electronically filing sealed documents published on the Court's website. If the exception contained in subsection I.C of this Appendix applies (dealing with pro se parties or attorneys whom the Court excused from electronically filing), a motion for leave to file under seal or a document that the court has ordered to be filed under seal must be filed in paper form.

**LBR 9006.1, *Bridge Orders***, is new:

**LBR 9006.1  
BRIDGE ORDERS**

Unless otherwise provided in the Code or in the Fed. R. Bankr. P., if a motion to extend the time to take any action is filed before the expiration of the period prescribed by the Code, the Fed. R. Bankr. P., these Local Rules or Court order, the time shall automatically be extended until the Court acts on the motion, without the necessity for the entry of a bridge order.

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Adopted 3/17/2018.